

Senate Bill 579

By: Senators Miles of the 43rd, Tate of the 38th, Butler of the 55th, Fort of the 39th, Jones of the 10th and others

A BILL TO BE ENTITLED
AN ACT

To amend Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to medical assistance generally, so as to require employers to annually report to the commissioner of community health information regarding employees and health care coverage; to provide for definitions; to provide for funds to be paid to the state by employers that do not spend a certain percentage of wages on health care benefits for their employees; to provide for penalties; to provide for powers, duties, and authority of the commissioner of community health; to provide for related matters; to provide for a contingent effective date; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to medical assistance generally, is amended by striking the "Reserved" designation of Code Section 49-4-156, and inserting in its place a new Code Section 49-4-156 to read as follows:

"49-4-156.

(a) As used in this Code section, the term:

(1) 'Employee' means any individual employed full time or part time by an employer.

(2) 'Employer' means any person or entity that employs 10,000 or more employees in this state, but shall not include the federal government, a state government, or any political subdivision thereof.

(3) 'Health insurance costs' means the amount paid by an employer to provide health care or health insurance to employees in this state to the extent the costs may be deductible by an employer under federal tax law. This term shall include payments for medical care, prescription drugs, vision care, medical savings accounts, and any other costs to provide health care for its employees.

1 (4) 'Wages' shall have the same meaning as in Code Section 34-8-49, as amended.

2 (b) On January 1, 2008, and annually thereafter, each employer shall submit on a form and
3 in a manner approved by the commissioner:

4 (1) As of January 1, 2007, and annually thereafter:

5 (A) The number of its full-time and part-time employees in this state;

6 (B) The number of its full-time and part-time employees in this state eligible to receive
7 health care coverage through the employer;

8 (C) The number of its full-time and part-time employees in this state receiving health
9 care coverage through the employer; and

10 (D) The source of health care coverage for those eligible full-time and part-time
11 employees in this state not receiving health care coverage through the employer;

12 (2) The amount spent by the employer in calendar year 2007, and annually thereafter, on
13 health insurance costs for its employees in this state; and

14 (3) The percentage of payroll that was spent by the employer in calendar year 2007, and
15 annually thereafter, on health insurance costs for its employees in this state. When
16 calculating the percentage of payroll, an employer may exempt:

17 (A) Wages paid to any employee in excess of the median household income in the state
18 as published by the United States Department of Commerce, Bureau of the Census; and

19 (B) Wages paid to an employee who is enrolled in or eligible for medicare.

20 (c) The form required in subsection (b) of this Code section shall:

21 (1) Be signed by the principal executive officer of the employer or his or her designee;
22 and

23 (2) Include an affidavit under penalty of perjury that the information on the form:

24 (A) Was reviewed by the principal executive officer or his or her designee; and

25 (B) Is true to the best of the principal executive officer's or designee's knowledge,
26 information, and belief.

27 (d)(1) An employer that is organized as a nonprofit organization that does not spend up
28 to 6 percent of the total wages paid to employees in this state on health insurance costs
29 shall pay to the commissioner an amount equal to the difference between what the
30 employer spends for health insurance costs and an amount equal to 6 percent of the total
31 wages paid to employees in this state.

32 (2) An employer that is not organized as a nonprofit organization and does not spend up
33 to 10 percent of the total wages paid to employees in this state on health insurance costs
34 shall pay to the commissioner an amount equal to the difference between what the
35 employer spends for health insurance costs and an amount equal to 10 percent of the total
36 wages paid to employees in this state.

(3) An employer may not deduct any payment made under paragraph (1) or (2) of this subsection from the wages of an employee.

(4) An employer shall make the payment required under this subsection to the commissioner on a periodic basis as determined by the commissioner.

(e)(1) Failure of an employer to report in accordance with subsections (b) and (c) of this Code section shall result in the imposition by the commissioner of a civil penalty of \$250.00 for each day that the report is not timely filed.

(2) Failure of an employer to make the payment required under subsection (d) of this Code section shall result in the imposition by the commissioner of a civil penalty of \$250,000.00.

(f) On or before March 15, 2008, and annually thereafter, the commissioner shall submit a report to the Governor and the General Assembly containing:

(1) The name of each nonprofit and for profit employer with 10,000 or more employees in this state;

(2) Each employer's definition of full-time employee and part-time employee;

(3) The number of full-time employees of each employer;

(4) The number of full-time employees of each employer eligible to receive health care coverage through the employer;

(5) The number of full-time employees of each employer receiving health care coverage through the employer;

(6) The source of health care coverage for those eligible full-time employees not receiving health care coverage through the employer;

(7) The number of part-time employees of each employer;

(8) The number of part-time employees of each employer eligible to receive health care coverage through the employer;

(9) The number of part-time employees of each employer receiving health care coverage through the employer; and

(10) The source of health care coverage for those eligible part-time employees not receiving health care coverage through the employer.

(g) The commissioner shall:

(1) On an annual basis, based on the information reported under subsections (b) and (c) of this Code section:

(A) Verify which employers have 10,000 or more employees in this state; and

(B) Ensure that all employers with 10,000 or more employees in this state have made the report required under subsections (b) and (c) of this Code section;

(2) Adopt rules and regulations to implement the provisions of this Code section;

1 (3) Deposit the revenue from the payroll assessment into the Fair Share Health Care
2 Trust Fund; and

3 (4) Utilize the moneys deposited in the Fair Share Health Care Trust Fund for medical
4 assistance as provided under this article."

5 **SECTION 2.**

6 This Act shall become effective on January 1, 2007; provided, however, that this Act shall
7 only become effective on January 1, 2007, upon the ratification of a resolution at the
8 November, 2006, state-wide general election, which resolution amends the Constitution so
9 as to authorize the General Assembly to provide by general law for the creation and operation
10 of the Fair Share Health Care Trust Fund. If such resolution is not so ratified, this Act shall
11 not become effective and shall stand repealed in its entirety on January 1, 2007.

12 **SECTION 3.**

13 All laws and parts of laws in conflict with this Act are repealed.